

1 CHAIR JAMES: Seeing that we have a quorum, I would
2 like to introduce to the Commissioners Dr. Charles Clotfelter
3 from Duke University.

4 Thank you, I really do appreciate the effort that you
5 have made to be here today. Our discussion on these very
6 important subjects would not be complete without having had your
7 input.

8 Dr. Clotfelter has been leading the Commission's
9 lottery research, including an analysis of lottery research,
10 including an analysis of lottery data from the states. There are
11 37 state run lotteries in the United States, and all of them
12 replied to the questionnaire. We are very grateful for that.

13 At this point Dr. Clotfelter will be reviewing the
14 data, and we do appreciate, again, your making the trip, and
15 welcome.

16 DR. CLOTFELTER: I am pleased to be here, thank you for
17 inviting me.

18 I assume that you mainly want to ask me questions, but
19 I would be happy to go over a few points before that, before the
20 car that you so graciously arranged for me comes to pick me up at
21 two.

22 Would that be the most helpful thing, for me to hit a
23 couple of points --

24 COMMISSIONER BIBLE: I think if you go over the results
25 of this paper, because we did not receive this until this
26 morning.

27 CHAIR JAMES: If you could summarize that, that would
28 be most helpful.

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1 DR. CLOTFELTER: And what if I do that, try to do that
2 in ten minutes or so, and then hit me with any questions. And I
3 will go through some of the pages in there. Is that all right?

4 When I testified before this Commission in March in
5 Boston I said that lotteries had three distinctive aspects, and I
6 still think that, and let me hit on those.

7 And then second say a word about who plays, and the
8 material in the preliminary report I can refer to there, and then
9 say a word about what we still haven't done yet. We have not
10 presented you with a completed report because the materials that
11 we needed just didn't come in on time, but we have now taken a
12 preliminary look at those things.

13 Three distinctive aspects of lotteries that I talked
14 about before, and let me just come back to them. One is how big
15 they are, two is the fact that they are marketed, and the third
16 has to do with the fact that they are used for revenue.

17 They are a big operation, and one of the biggest ones
18 that states run, but has a surprisingly small amount of revenue
19 that comes in for the state run lotteries. I will use number 38
20 and include the District of Columbia.

21 They average about 2.2 percent of owned- state
22 revenues. That is taking away intergovernmental revenue, it is
23 about 2.2 percent of revenue.

24 A lot of people think that lotteries have much bigger
25 revenue basing capacity than that. So that is one thing. There
26 are about five states that have over three percent of their
27 revenue are raised from lotteries.

28 But, in general, it is not a big deal on the revenue
29 side. But on the expenditure side it is a big deal, and things

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1 that the lottery does then has an impact, and it is also noticed.
2 They are advertised, for one thing, in a manner that really no
3 other government service is.

4 So if the lottery does something, it is like the
5 lottery sneezes and the state catches a cold. So it is like
6 that.

7 About 36 billion dollars was spent on lotteries in
8 1997. About 150 dollars per capita. And you might see, in the
9 report, some numbers that are higher than that. The numbers that
10 are based on the NORC survey are based on adults. The 150 dollar
11 per capita figure.

12 And let me just refer you to table 1 in the
13 presentation, it has a summary of how lotteries have changed over
14 time, and the bottom line gives per capita sales. They went from
15 35 dollars in 1973 to 127, to 150. And those are all in constant
16 dollars.

17 You will see that the growth rate was much greater
18 between 1973 and 1987. It was about 9.2 percent a year, which is
19 phenomenal growth for any kind of business. And then between
20 1987 and 1997 it slowed a good bit, to 1.6 percent real.

21 So those are magnitudes. Second, marketing. Obviously
22 lotteries are marketed, some states more than other states. But
23 it makes it very distinctive in comparison to what other things
24 that state governments do. Most state functions don't require
25 marketing.

26 And in this case marketing is defined as creating and
27 developing products, and then promoting those products, so that
28 the lottery agencies appear to be constantly thinking about ways
29 to enhance their offerings, either through new games or tweaking

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1 the details of the games that are there now, as well as
2 advertising them.

3 They spent about 400 million dollars on advertising
4 in '97, it is about one percent of their sales. It is kind of
5 standard ratio for retail sales.

6 The product line has changed. If you look at this
7 table 1 you will see that in 1973 the big product was basically a
8 raffle. And that is all but disappeared.

9 In '87 the biggest games were numbers, daily numbers
10 and lotto. The daily numbers are basically a copy of the old
11 illegal numbers games where you pick your own number, and then
12 the computer tells you at the end of the day whether you won, and
13 there are combinations that can be played that way.

14 Between '87 and '97, to me the most startling thing
15 here is tremendous growth in kind of an old game, that is the
16 instant scratch-off tickets. They have grown like crazy. The
17 daily numbers games have grown very little, the lotto has grown,
18 but more modestly.

19 And then there is a couple of new games. Keno has been
20 introduced in a number of states. Keno looks a lot like -- well,
21 you all probably know about it, so -- and then video lottery
22 terminals, which bear a striking resemblance to slot machines,
23 but are different.

24 And they are separated, and I separate them because
25 qualitatively they are different, there is a lot more replaying
26 of the winnings, and so the winnings are cycled in a way so that
27 at the end of the day when you walk away the high payout rates
28 that are true for a single bid don't apply to the whole session.

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1 What is on the horizon? Well, you all are certainly,
2 this is key for you to think about. What is coming up next, and
3 how does it imply, what does it imply for public policy.

4 Economists are not very good forecasters, and I'm not
5 even a forecaster, so I won't pretend to know what is coming.
6 But it appears to be, by reading in the industry publications,
7 that internet gambling and lotteries is a possibility.

8 When we wrote our book we thought that by betting by
9 phone with touchtone would be something that would happen, but I
10 guess it hasn't because of the difficulty of monitoring how old
11 the player is.

12 And another thing, an age-old -- well, it is a fairly
13 old approach, vending machines are used, increasingly, to sell
14 this product that is growing so much, the instant games.

15 As a source of state revenue, the point we made in our
16 book, and it appears to still be the case, is that if you look at
17 the lottery as a two piece element, one piece we are providing a
18 product that was illegal before, here it is, so this was illegal,
19 you can now buy it.

20 The other thing is we are going to tax the heck out of
21 it, implicitly, by breaking off a lot of profit. Phil Cooke and
22 I call this an implicit tax, because it looks like a tax, it
23 walks like a tax, but it is not really a tax, it is really a
24 profit on an enterprise.

25 But if you take this and compare it to the taxes that
26 we have put on, say, tobacco products or alcohol, it turns out to
27 be a pretty high tax.

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1 So that is one fact about lotteries, is that if you
2 compare it to other forms of revenue raising, it has a pretty
3 good kick to it.

4 Here is an easy calculation. We find that on average
5 33 cents out of a dollar of lottery sales goes to state
6 treasuries. That is 33 cents. On average it appears that those
7 winnings are taxed, usually at the federal level, but also the
8 state level, give that five cents more.

9 So that out of a dollar spent the buyer is going to
10 contribute something like 38 cents to government, either to state
11 or federal level. If you take that 38 and divide it by
12 everything else, which is 62, that is the way you would calculate
13 an excise tax on gasoline or tobacco.

14 And that turns out to be a 61 percent excise tax, and
15 that is a pretty high rate. So that is another characteristic of
16 lotteries that we have pointed out.

17 The tax part is regressive in the sense of as you go up
18 the income scale, people spend -- they are taxed a smaller and
19 smaller part of their income. That is just the straight
20 definition that economists use for regressive.

21 And there just doesn't seem to be any countervailing
22 evidence to that. The new NORC data suggests the same thing, and
23 that is because the amount that people spend on average stays
24 about the same, as you go up income, so that the dollars stay
25 about the same, but as a percentage of income it goes down.

26 And another aspect is that these revenues are
27 earmarked, often. In more than half the cases they are
28 earmarked, and the most common source for earmarking is
29 education. The evidence that I've seen, I just got through

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1 reading a new paper that is unpublished on the write up here
2 today.

3 All of it seems to suggest that legislators take into
4 account that there is this thing called the lottery when they are
5 then allocating the general budget.

6 And so, in effect, it doesn't help the source. And, in
7 fact this paper argues that it made it worse off. But that, I
8 think, is going beyond what I've seen otherwise.

9 So it might be helpful in selling the lottery, but it
10 usually doesn't have a big effect. Though I would tell you an
11 exception, where the programs are new and small, like the Georgia
12 Hope Scholarship, then I think it probably does make a
13 difference.

14 Who plays? Well, we have had about ten days to look at
15 the NORC results, and the first thing we noticed is that when we
16 weight these things, and take a total for the country, we get a
17 total for lottery play which is about one third of what we expect
18 to find.

19 So the survey is giving us numbers that are off, way
20 off. And we haven't had enough time to think about it. Phil has
21 not. So the first reasonable thing to do is to say there is
22 probably some kind of bias and people are underestimating what
23 they are playing.

24 And so what we are going to do is assume that is pretty
25 much across the board, by game. It turns out that they are
26 reporting 78 percent of what the actual lotto play is. They are
27 reporting only 19 percent of what numbers play is, and only 14
28 percent of what instant play is.

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1 So the respondents in this survey are coming in with
2 estimates that are much lower. If you take these estimates they
3 give us, and assume that everybody playing numbers is
4 understating by the same amount, we are going to just flip these
5 ratios, and blow them up so that the total comes out to what we
6 think it should be.

7 And that is -- so that is simply a guess at this point.
8 We are going to try to look at it more carefully and see if there
9 are other reasonable things we could do.

10 So what we then have are answers by men and women,
11 black, white, by income, and we are going to say that no matter
12 where you are in the demographic or income categories, if you are
13 playing numbers you are understating your play by 19 percent.

14 CHAIR JAMES: Dr. Clotfelter, just as a point of
15 clarification when you detect or suspect that there is
16 under-reporting or underestimating, how do you know that?

17 DR. CLOTFELTER: Because the survey comes with sample
18 weights. So if it were a, say, a random sample, and we had 200
19 million people and we had 200 estimates, 200 people that we
20 randomly picked, then each person would represent a million
21 people, and that would be our weight, a million.

22 But it turns out because some groups are interesting,
23 but are smaller in the population, we will oversample them. So
24 maybe there would be rural residents that were really interested,
25 we might oversample them 3 to 1.

26 So instead of them each representing one million, they
27 would each represent 300,000. So we take the weights that are
28 given to us by the good people at the NORC, apply those to the

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1 estimates, get a national estimate, this is how much lottery play
2 there was, we get a number like 11 billion.

3 But all the numbers from the state lotteries suggest
4 that they should add up to about 35 billion. So that is the
5 sense at which it is an underestimate. And this is pretty big.

6 CHAIR JAMES: Yes.

7 DR. CLOTFELTER: In most cases you would like to get
8 closer than that. But, you know, these are the cards we were
9 dealt.

10 CHAIR JAMES: Why do you think that is the case?

11 DR. CLOTFELTER: I don't really have a speculation on
12 it. Dean Gerstein, and he is an expert in this kind of stuff,
13 and I'm not. But I would guess that it is like asking people
14 about other possibly sensitive behaviors. People have a tendency
15 not to be forthright in some cases, so that might be one reason.

16 CHAIR JAMES: I would remind Commissioners that we are
17 operating under a more relaxed, and so I'm not going to recognize
18 Commissioners. If you want to speak, just jump right in.

19 COMMISSIONER DOBSON: I expressed some concern this
20 morning about the NORC data being lower, generally, in
21 incidences, and so on, than we have seen in other studies.

22 Are your comments now about your own work relevant to
23 what you have seen so far in the NORC data?

24 DR. CLOTFELTER: I'm not sure, let me see if this is --

25 COMMISSIONER DOBSON: The essence is, if there was
26 reason to distort the results, or to lie, or to underestimate the
27 results to you, do you see a possibility in the NORC data that
28 the same phenomenon occurred?

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1 DR. CLOTFELTER: Something happened, and one
2 possibility is lack of forthrightness. I wouldn't want to say
3 lie.

4 COMMISSIONER DOBSON: That is a value judgment, but
5 people do lie. I mean, that shouldn't surprise us.

6 DR. CLOTFELTER: You are at home, you are fixing
7 dinner, you get a phone call from some person who says he or she
8 is doing a survey, you answer the questions. First of all, that
9 already makes you not the typical person, a lot of people are
10 going to say no.

11 So what happens? The people that do these surveys have
12 to worry about the kind of -- not only do we worry about people
13 that have three telephone lines versus one, because we don't want
14 to give those people three times bigger chance to get called on,
15 but do the people that answer my questions, are they a random
16 sample of the people I'm calling.

17 It is quite possible that the people that say no are
18 systematically different.

19 COMMISSIONER DOBSON: Let me ask one other aspect of
20 that with regard to youth. How do we know, of course this is
21 probably a more appropriate question for Dr. Gerstein. But how
22 do we know that parents were not in the room when teenagers are
23 being asked those questions about gambling?

24 DR. CLOTFELTER: Well, my teenager is very forthright,
25 much more than I would like him to be.

26 CHAIR JAMES: And I have a bridge you may be interested
27 in, too.

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1 COMMISSIONER DOBSON: I am really concerned about the
2 data that we got back, because it doesn't fit with what we have
3 seen elsewhere by many other researches.

4 DR. CLOTFELTER: Well, I don't know much about -- I'm a
5 user of this kind of data, but I know that NORC, there is -- you
6 know, you can't do much better. So there is just manifold
7 problems in a survey, specially in a -- I'm not putting
8 psychology on, but I think increasingly we are all feeling like
9 we are besieged by the MCI calls, and the AT&T calls.

10 And I think it has to be very difficult to get in here
11 and try to do a good job when there are those kind of
12 sensitivities out.

13 Then just as far as some of the findings. So with
14 these caveats, what we do is then try to look at some patterns.
15 And let me say a couple of things about how many people play, and
16 then give some ideas of how they correlate to other things.

17 The survey is just of adults that we are looking at,
18 adults of the lottery play. About 56 percent of adults played
19 last year, in lottery states about 56 percent said they played
20 last year. That corresponds with data that we looked at in
21 California and other states in the 1980s.

22 But there is a great heterogeneity that the most active
23 10 percent of players accounted for over 50 percent of the play.
24 So 10 percent of the players accounted for over half of the play.

25 Let me then direct your attention to this report, and
26 look at the last three pages, and the last page is referenced.
27 So look at figure 1 at the end, it looks like -- it has a bar
28 chart like this, and it might be a way to most easily calculate
29 or summarize some of the findings, again based on NRC data.

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1 Males play more than females, a finding that we had
2 found before. Figure 1 refers to did you play the lottery, not
3 how much did you play, but did you play the lottery. Lottery
4 play is highest in the 30 to 44 age bracket. Those with less
5 than high school education played less often than any other
6 group, but they played so much, you will see on the next page,
7 that it reverses the refinings.

8 Whites played more often than blacks, and slightly more
9 often than other non-whites. Marital status almost no effect.
10 But then look on figure 2, which I'm thinking in some sense it is
11 the much more interesting one.

12 Males, again, more than females. These are now in
13 dollars, and we have a per capita spending rate, an average that
14 is the line there. And then the dollars tell you how much the
15 per capita spending is.

16 By age it is 45 to 64, even though they play at a lower
17 rate, their average play is much greater. 18 to 29 is not that
18 high. Education, as the more educated you are, the less you
19 spend on lotteries. It is the same finding we found before.

20 And there is a big racial component here. The average
21 for blacks is higher than the average for whites, even though the
22 participation rates are the reverse.

23 And I would say here the findings might be susceptible
24 to these kinds of corrections, because to the extent that daily
25 numbers play may be higher in African-American neighborhoods,
26 dividing by 1.9 is going to make those numbers look bigger. And
27 that was the correction that we took.

28 Policy questions, and I will stop. I guess our feeling
29 hasn't changed, to this regard. Even though if you look at

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1 lotteries the way they are organized, the way they are marketed,
2 and the way they are run, the way they are financed, is virtually
3 identical from one state to the other, really. It is just about
4 a cookie cutter approach.

5 Even though that is the case, I don't believe that
6 those -- that is the only way to run a lottery. One could
7 imagine a lottery run in at least two respects differently.

8 One could offer the bettors a better deal, so that the
9 payout rates could be higher, but you wouldn't make as much money
10 if you did that. And the second thing one could do is not market
11 the lottery products as much as they are, in most cases.

12 And in a few states, including the Old Dominion that we
13 are in, is one state that has put restrictions on advertising
14 along with Minnesota and Wisconsin. And it basically said in the
15 law you can't induce people to play. And that has, depending on
16 what kind of oversight you have, that has got to have some effect
17 on advertising.

18 CHAIR JAMES: Dr. Clotfelter, I would interrupt for
19 just a minute to welcome the State Lottery Director from the
20 Commonwealth of Virginia, Ms. Penny Kyle, who is attending today,
21 and watching our deliberations.

22 Welcome, and we appreciate your being here.

23 DR. CLOTFELTER: In our book we call Virginia the
24 genteel lottery, because it came on really trying to restrain
25 itself to that extent.

26 COMMISSIONER WILHELM: It started that way. I'm a
27 Virginian, by the way.

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1 DR. CLOTFELTER: So those -- and so an approach on
2 marketing would have implications about what games you allow, and
3 how you market those games.

4 And I guess the last thing, and we are thinking about
5 that in the state of North Carolina, because people in our state
6 are worried about all the revenue that we are sending to
7 Virginia, and Georgia, and soon South Carolina. There is a
8 debate there.

9 And another variable one might think about is what kind
10 of oversight Commission do you have, to what extent do citizens
11 participate in that.

12 I think those are some of the points that we will touch
13 on in the final report.

14 COMMISSIONER LEONE: I asked this question earlier of
15 another person here, and you must -- and it occurs to me that you
16 must have thought about it a lot.

17 I wondered if you had thought about, and knew anybody
18 who looked at it in a systematic way, the redistributive aspects
19 of the prices awarded in lotteries, which seems to me to be --
20 and more generally in gambling, because it seems to me that one
21 of the things that is unique about, or unusual about it, there is
22 some aspect of this is in the securities trading, about the --
23 about gambling in lotteries, and even casino betting, is that
24 there is a redistributive effect.

25 Lotteries, I would guess, would be the most dramatic in
26 the total handle, if you will, in the total amount bet, because
27 only a minority of people win large amounts of money.

28 DR. CLOTFELTER: So it is a redistribution from the
29 unlucky to the lucky.

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1 COMMISSIONER LEONE: But with significant numerical
2 differences between the groups.

3 DR. CLOTFELTER: Yes.

4 COMMISSIONER LEONE: And I wonder if anybody has looked
5 at that?

6 DR. CLOTFELTER: Economists would worry about whether
7 the redistribution patterns that go across income lines, and that
8 would not appear to be the case, because if more people play in
9 an income strata, then more people will win in that strata.

10 So the redistribution that occurs, that at least is the
11 first thought for economists is that those with certain incomes
12 give up their money, and then it goes into the treasury. And the
13 redistribution in the form of prizes is more, I think, a nature
14 of grist for publicity, and also maybe something about --

15 COMMISSIONER LEONE: I don't know why you say that,
16 economists are currently very concerned that even within
17 particular employment categories there are more dramatic
18 differences in weigh levels than there were previously, so
19 economists can be concerned about the relative effects on --

20 DR. CLOTFELTER: I think --

21 COMMISSIONER LEONE: -- within -- yes, within all sorts
22 of things. At least some economists are concerned about that.
23 Others, I grant you, are not.

24 DR. CLOTFELTER: Okay, I guess I hadn't thought about
25 that. I guess if you have lotteries then you have more
26 inequality. And we have certainly gone in the direction of more
27 inequality since 1973, as the 20th century fund and others have
28 pointed out.

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1 COMMISSIONER LOESCHER: Madam Chair, a couple of
2 questions. One is we heard in an earlier presentation today
3 about the saturation limit, you know, the people looking at
4 gaming and other things, casinos and other things, that there is
5 a saturation limit. At least people in your group have indicated
6 that the american public have found that limit in some places in
7 gambling.

8 Now, what is your view about the saturation limit for
9 this lottery business?

10 DR. CLOTFELTER: The slow down in the rate of growth is
11 suggestive of that. But I guess saturation is a concept that is
12 of greatest concern to those who are marketing the product, and
13 worried about a slow-down in sales. And that is really not -- I
14 don't view that as a terrible policy question.

15 If people are going to get tired of something, they are
16 going to get tired of it. The important policy question, from my
17 perspective is, what does the Government do about it, does it
18 say, we've got to go and develop new products so that we can sell
19 more of this, so we can increase the revenue, or does it say, we
20 are going to provide this thing, if people want it, fine, if they
21 don't want it, fine. And we will take a fair amount of revenue
22 off of it, and then we will go back to business.

23 I think that is -- what does the government do about it
24 would be, to me, the big policy question.

25 COMMISSIONER LOESCHER: Madam Chair, one different kind
26 of a question. I have been curious about interstate commerce in
27 this business of money moving across state boundaries, and people
28 being concerned about that.

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1 Are there agreements between states that enable
2 lotteries from one state to another, or is it just a phenomena of
3 marketing and people taking advantage of whatever distribution
4 mechanisms there are to get a lottery ticket from one state to
5 the next?

6 DR. CLOTFELTER: I assume the staff of this Commission
7 has lawyers that have looked into this question. My
8 understanding of it is that sales across state lines are not
9 prohibited, but the use of the mail probably is. It can't be
10 used. The U.S. mail cannot be used to sell lottery tickets
11 across state lines.

12 So what is the distribution? People send Joe up across
13 the Illinois border every Friday, buy lotto tickets, bring them
14 back, and if they win, they win.

15 COMMISSIONER LOESCHER: Madam Chair, my only question
16 was, in your knowledge of studying this business of lotteries,
17 you know of no agreements between states, between or among
18 states?

19 DR. CLOTFELTER: The only ones would be the multi-state
20 lotto, and there are at least there consortia. One, the biggest
21 one is the multi-state lottery association, and they do
22 powerball.

23 And by amalgamating all these states, it is the nature
24 of lotto that the bigger your population the better. You can
25 generate these very large jackpots. So those are explicit
26 agreements. But that is the only one I can think of.

27 COMMISSIONER LOESCHER: Thank you very much.

28 COMMISSIONER MOORE: Basically what is the difference
29 between the VLTs and the slot machines?

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1 DR. CLOTFELTER: I'm not an expert. I did visit a
2 parlor in Washington State. No, it is in Oregon, because they
3 are big in Oregon. So I asked the people that I was with, please
4 take me to the tavern across the street.

5 So we went over there and I saw this thing. But I have
6 never seen -- well, I have also seen slot machines in operation,
7 so I'm an expert in this, now that I think of it.

8 Slot machines have things that go around, the and the
9 poker machines give you a hand, and -- I don't really know beyond
10 that.

11 COMMISSIONER MOORE: What is the selection of the win
12 event occurring in the VLT, is it in a machine, or is it in a
13 central processor?

14 DR. CLOTFELTER: That is a good question. I guess it
15 probably -- I don't know if it matters.

16 COMMISSIONER MOORE: Well, you should care, because in
17 the lotto selection it usually occurs from a central processor,
18 unless it is an instant type ticket. The slot machine makes the
19 selection itself, based upon its own random --

20 CHAIR JAMES: In a regulatory -- it makes a big
21 difference.

22 COMMISSIONER BIBLE: Is it a fairly different question,
23 I really don't -- I do not know the difference between the VLTs
24 because they look like, they act like, and they are to a large
25 extent slot machines.

26 COMMISSIONER MOORE: My question then is more of
27 philosophy I guess, if we have a philosophy of gambling. I mean,
28 what is the difference in gambling in a slot machines than in one
29 of these machines?

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1 So if a state has these machines, then the lottery if
2 that is, you know, in Mississippi we don't have a lottery, but if
3 we did, it would probably just be selling tickets, you know, you
4 would have a roll that you take a ticket off. That would be our
5 modernization.

6 But these other places where they have all this fancy
7 stuff, the question is, do the Indians have a gripe when
8 California can have these, or wherever you said you went, and the
9 Indians can't have a slot machine, in your opinion?

10 DR. CLOTFELTER: I guess you are getting beyond my
11 expertise.

12 COMMISSIONER BIBLE: The Court in California said, yes
13 they do have a gripe because the selection process occurred at
14 the device level, not through a centralized processor.

15 COMMISSIONER MOORE: As I understand it, the processor?

16 COMMISSIONER BIBLE: Yes, that is where the selection
17 occurs, and that has been the basis of the California court
18 decision, because the lottery terminals there put out an instant
19 ticket with the methodology of selection that was random, and it
20 was all internal to that device, that in effect operated like a
21 slot machine, and therefore the tribes are entitled to slot
22 machines.

23 DR. CLOTFELTER: Mr. Moore, one thing I did learn, and
24 it is relevant to California, and this had to do with Keno. And
25 the reason that Keno was declared unconstitutional in California
26 is because it was not on a pari-mutuel basis, the payouts were
27 straight. And that, therefore, the house stood to lose, and that
28 did occur, then there was a debate between Indian tribes, and
29 that was thrown out.

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1 But they replaced it with something that looked just
2 like it, but then became --

3 COMMISSIONER BIBLE: It is the way the selection
4 process occurs, you know, whether you have a random generated, or
5 like in a lottery, you take 1,000 tickets, and only one of them
6 is a winning ticket, and you reach into the barrel and draw the
7 ticket. I mean, it is like a pull tab type device.

8 Even though the winning ticket may have been sold, and
9 somebody has already collected, you are still selling tickets out
10 there, so it is the selection process that determines all of
11 these games, and the distinguishing features between them.

12 DR. CLOTFELTER: And the gradations begin to be fairly
13 fine.

14 COMMISSIONER BIBLE: And the courts have talked a lot
15 about it in terms of tribal gaming.

16 COMMISSIONER WILHELM: And invisible to the customer at
17 large.

18 DR. CLOTFELTER: I would think that is probably right.

19 COMMISSIONER WILHELM: One of the many reasons I find
20 that my friend Dr. Moore is that he can, with a straight face,
21 describe gambling in the state of Mississippi as moderate, when
22 it is the third largest casino state in the country. It is an
23 interesting approach.

24 Is there any reliable data, Dr. Clotfelter, on the
25 subject of the extent to which, if at all, lottery games have
26 displaced illegal gambling? You had cited the comparison
27 between the daily number and the lottery, and the illegal but
28 common daily number in a number of urban areas.

29 Is there any reliable data on that subject?

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1 DR. CLOTFELTER: No.

2 COMMISSIONER WILHELM: My second question is, do you --
3 I accept your comment earlier about the difficulty of predicting
4 anything. But do you have any sense of whether through
5 lotteries, these video lottery terminals are liable to expand
6 dramatically?

7 And by expand I guess I really mean to additional
8 states?

9 DR. CLOTFELTER: That is a political question. I think
10 that the policy makers in the state look at this thing that they
11 have in Oregon and say, do we want this in our state. And if
12 they say yes, then I guess it is quite possible.

13 I think it is in five states, the per capita sales are
14 kind of mind boggling. It must not be widespread, the
15 participation rates, I would guess, are pretty small.

16 So it must mean that a pretty small number of people
17 are playing a whole lot in fairly controlled places. And I could
18 imagine that some states might think that was distasteful.

19 CHAIR JAMES: When you say fairly controlled places,
20 what do you mean by that?

21 DR. CLOTFELTER: They usually are put in taverns, bars,
22 restaurants selling liquor. They are not at the A&P.

23 CHAIR JAMES: Is that the South Carolina experience?

24 DR. CLOTFELTER: I don't know anything about South
25 Carolina, except that I have to go through it occasionally.

26 COMMISSIONER WILHELM: Those are not state sponsored,
27 though.

28 CHAIR JAMES: No, those are private, aren't they?

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1 COMMISSIONER WILHELM: My third question, you made some
2 passing reference to this, and by introduction I'm a Virginian,
3 and I'm not a victim of the stereotype that somehow people in the
4 conservative south don't gamble a lot, because we always have.

5 But do you think there is any particular implications
6 in the apparent likelihood that lotteries are going to be
7 increasing significantly in the south, have been and will be;
8 what is that about, do you know?

9 DR. CLOTFELTER: Well, I think increasingly we in the
10 south are realizing that we are more like the rest of the country
11 than we are unlike the rest of the country.

12 So I think that is probably what we are seeing, is that
13 it is the homogenization of the country, to some extent.

14 CHAIR JAMES: We may be, but we hide it better.

15 DR. CLOTFELTER: Right.

16 COMMISSIONER LOESCHER: Madam Chair if I could ask a
17 question? I forget where we were when we were looking at
18 lotteries, and experiencing Boston, maybe.

19 CHAIR JAMES: Boston.

20 COMMISSIONER LOESCHER: It has been a long journey.
21 But I was concerned, I look at your statistics, and the
22 demographics, and you have a percent of white americans of that
23 group, a percent of blacks, a percent -- but I was concerned, my
24 experience in Boston, I guess it was, that there was a
25 concentration, allegedly a concentration of advertising in low
26 income areas, neighborhoods with a lot of minority people.

27 We can't derive anything from your study that would
28 give us any feel for these kind of approaches to marketing and
29 impacts to low income people and minorities?

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1 DR. CLOTFELTER: Well, not from what I have presented.
2 We have two -- Phil and I have two colleagues at Duke, who as
3 part of our agreed-upon work are marketing experts at the
4 business school, will be looking at a massive amount of
5 advertising and marketing studies that have been trucked down to
6 us.

7 And one of the things they will be looking at is
8 whether there was -- is any evidence of concentrated target
9 marketing for minority groups.

10 When we wrote our book we did look for this. And, of
11 course, it is the sort of thing that is going to be of great
12 interest to the policy makers and newspapers.

13 And there are a couple of situations. One egregious
14 one in Chicago. But the number of cases are pretty limited. And
15 so I would say that you would have a hard time making a case that
16 lottery agencies have preyed upon the poor in that explicit way.

17 At the same time they are good markets, and good
18 marketers know that they need to market where they get the fish,
19 where the fish are, and so they are going to target their
20 marketing to groups where there is some hope of increased sales.

21 COMMISSIONER BIBLE: The lottery directors must get
22 confused, because at almost every election the politicians that
23 are running for public office indicate they want to run
24 government like a business, and here the lottery directors come
25 along, and they run it like a business, they do advertising, they
26 do targeting, they try to enhance and make the product better,
27 and now they are being criticized for making it a better
28 business.

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1 DR. CLOTFELTER: Our experience was that the lotteries
2 are being run very honestly, they are being run efficiently, they
3 are listening to the legislation which says, give us more
4 revenue.

5 COMMISSIONER BIBLE: And they are running it like a
6 business, it is government acting like a business.

7 DR. CLOTFELTER: And that is one of the reasons, also,
8 that in setting them up, a number of states have tried to
9 separate their organizations from the rest of the state
10 government in terms of being able to pay their managers.

11 COMMISSIONER BIBLE: Sure, take them off budget, they
12 are not subject to personnel controls, they don't have the normal
13 bureaucratic constraints.

14 COMMISSIONER LEONE: -- is suggesting that they are
15 running according to business values rather than democratic
16 values?

17 COMMISSIONER BIBLE: Right.

18 COMMISSIONER LEONE: Capitalist enterprises which are
19 meant to maximize return, rather than exercises that reflect the
20 democratic consensus about what is fair, and what is right, and
21 what --

22 DR. CLOTFELTER: That is one of the things that makes
23 lotteries such an interesting subject, because they are part of
24 government, and they are being run in a way that nothing else in
25 government is, for better or for worse, they are different.

26 COMMISSIONER LOESCHER: Madam Chair one more question
27 regarding this government purpose.

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1 You make the case that lotteries are primarily for
2 revenue. But what about jobs and other things, how many jobs are
3 created by this lottery business in comparison to other --

4 DR. CLOTFELTER: I don't know, I don't know the answer
5 to that.

6 COMMISSIONER LOESCHER: Do we know how many jobs, in
7 your statistics, are created by this enterprise, by state?

8 DR. CLOTFELTER: I don't have data on it.

9 COMMISSIONER DOBSON: Bill I can comment on your
10 comment a minute ago. I don't think I agree with the conclusion
11 there. When you say that government ought to be run like a
12 business, I think what most people mean is that it ought to be
13 lean and mean, and it ought to not waste money, and it ought to
14 look at conservation, and the things that business does to become
15 effective.

16 It does not mean that government ought to maximize
17 every opportunity to squeeze more money out of its people.

18 COMMISSIONER BIBLE: But this is a case where it would
19 be entrepreneurial, it is exercising some of the same principles
20 that are used in business. It is a different type environment,
21 it is a place where government interfaces differently with the
22 citizen. They are not delivering a service, they are delivering
23 a product in this case, and they are trying to maximize to --

24 COMMISSIONER DOBSON: Extend that to its natural
25 conclusion and you have, you know, an interference with commerce,
26 you have an interference with families, you really try to squeeze
27 every last dollar out of the population.

28 I don't think it --

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1 COMMISSIONER BIBLE: No, I'm not saying it is right or
2 wrong, I'm just saying that is what is happening, and that is
3 what is happening in the system, and I think that is the way are
4 being operated and --

5 COMMISSIONER DOBSON: That is exactly what worries me
6 about lotteries.

7 COMMISSIONER BIBLE: -- you look at lotteries and the
8 evolutionary development of lotteries, and typically they start
9 at a fairly low scale, the revenues start decreasing, they put
10 more zip in the product, they have gone to multi-states to
11 develop bigger prizes, and developed more plays.

12 They have done a lot of things that are more
13 characteristic of business and business type activities, than
14 government and government type activities.

15 CHAIR JAMES: I think one of the things that concerns
16 me, personally, is that indeed it is run like a business, but it
17 is run like a business by government, and government by
18 definition should be concerned about the public good and public
19 policy.

20 And so as a result of that I think it is inappropriate
21 to remove those kinds of public policy discussion..

22 COMMISSIONER BIBLE: And we have debates, and Boston is
23 a perfect example, where we had the legislator, and I can't
24 remember if he is a state senator or a state assemblyman who is
25 very active, and has not been successful at processing
26 legislation through the Commonwealth of Boston.

27 Instead he made an appearance before us, and I thought
28 it was incredible, and suggested that the federal government put
29 some controls on the lottery.

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1 COMMISSIONER DOBSON: Is that what you would suggest
2 that there really ought to be federal intervention with regard to
3 the lottery? You came close to it 15 minutes ago, at least I
4 thought you did.

5 Do you remember when you came close to it? It looked
6 like it is a long ways away. You didn't say it, let me just ask
7 you outright. Do you think there ought to be any kind of federal
8 legislation that has to do with lotteries?

9 DR. CLOTFELTER: Let me not advocate something. But I
10 could point out that if you run a sweepstakes, the federal
11 government does have things to say about how forthrightly you
12 advertise the odds. But there is no such regulation for state
13 lotteries.

14 If you wanted to, if your objective were consistency in
15 treatment, that would be one thing you could look at.

16 COMMISSIONER WILHELM: There you go again, Jim,
17 advocating big government.

18 (General laughter.)

19 COMMISSIONER BIBLE: Lotteries are treated a little bit
20 differently in terms of the federal law, in terms of advertising
21 practices. Both tribal operations and lottery operations are
22 allowed to advertise their product, which normal commercial
23 gaming is not.

24 COMMISSIONER LOESCHER: Madam Chair --

25 CHAIR JAMES: Well, I have to remind people that this
26 is informal, and I am not recognizing individuals, and so you
27 should jump right in there.

28 COMMISSIONER LOESCHER: I would like to jump right in
29 there.

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1 CHAIR JAMES: Except, let me say, that Leo has been
2 trying to get in for a few minutes, and then we will come --

3 COMMISSIONER MCCARTHY: But you have covered a much
4 greater distance than I have, so you go next, please.

5 COMMISSIONER LOESCHER: Thank you very much, I
6 appreciate that.

7 I am curious, you know, governmental purpose, we heard
8 testimony in a couple of places on our journey about this lottery
9 business, from people who came before the Commission from
10 Georgia, I can remember, and a couple of other places. And they
11 have these high goals and objectives for what the lottery money
12 is raised for and used.

13 And then I was confused a little bit when I began to
14 hear that money is used for general governmental purposes, and
15 what not. And I was hoping that your study would verify for us
16 that the states are in the business of lottery, raising money
17 through the lottery, that they are truly either using the money
18 for the purpose that they explained in their public policy laws,
19 or they are not.

20 Do you have any information that would help this
21 Commission verify that the governmental purpose is being carried
22 out, and can we track that?

23 DR. CLOTFELTER: Not in what I presented. The answer
24 is it is not easy to track. The only requirement --

25 COMMISSIONER BIBLE: In Georgia you can.

26 DR. CLOTFELTER: In Georgia and maybe Pennsylvania, and
27 a couple of places, you can.

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1 COMMISSIONER LEONE: The reason you are here is because
2 you are an economist and an expert. There is a little thing
3 called fungibility.

4 DR. CLOTFELTER: Sure.

5 COMMISSIONER LEONE: So we should -- you can track it
6 in Georgia only if you accept as a premise that this money would
7 not have been spent any other way, or raised any other way.

8 DR. CLOTFELTER: Well, let me just finish. The reason
9 you can track it in Georgia is because their lottery monies are
10 being spent on things that weren't spent -- that weren't existing
11 before.

12 And so it is a fair presumption to say that the lottery
13 money is actually going to this. The question is, can you track
14 it? Tracking it would be, because of the lottery are there more
15 dollars being spent on the purpose that the law states.

16 And in Georgia you could probably make that argument
17 because there was zero before, and now it is something. But in
18 most of the states, and education is the one that is the most
19 common earmarking recipient, it is impossible to track it.

20 And there is nothing illegal going on, it is just
21 impossible to do.

22 COMMISSIONER BIBLE: But if you look at the question in
23 the reverse, has any state or jurisdiction, to your knowledge,
24 taken monies from the lottery and then reduced tax effort in
25 other areas, are revenues reduced?

26 Because, you know, money is fungible, and so if there
27 is monies that are earmarked for education, this means less money
28 has to come out of the general fund to support that particular
29 purpose.

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1 Does anybody actually reduced other levels of revenue,
2 reduced taxes because of lottery income?

3 DR. CLOTFELTER: One thing that makes it difficult is
4 that time is going on, growth is happening, and so one has to
5 ask, the social scientist question is, is a counterfactual one.

6 Does education spend more than it would have if there
7 were no lottery? And the studies that we are most familiar with
8 tend to suggest that education isn't any better off than it would
9 be in the absence of a lottery earmarked for education.

10 So in general, but Georgia would be --

11 COMMISSIONER BIBLE: Yes, because they use it for new
12 program that was not in existence at the time it was established,
13 clearly identifying those --

14 DR. CLOTFELTER: So if you want your lottery to really
15 make a difference, you really have to establish a new use, or
16 have the revenues be gargantuan, because then there is no way for
17 the legislature to get around it, they have to spend that money.

18 COMMISSIONER MCCARTHY: I really want to make an
19 observation more than -- because I think some of the questions we
20 are asking Dr. Clotfelter straight up public policy decisions
21 that are usually made by elected officials.

22 But from what I draw from the questions Mr. Bible was
23 putting, and several others were putting, is really a root
24 question of should government, at any level, be sponsoring
25 gambling, be an active partner in gambling.

26 So we are not really just talking about lotteries, we
27 are talking about should the federal government own half of a
28 cardroom in Los Angeles county from which it has ceased as drug
29 forfeiture. Should the State of Connecticut enter into a

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1 contract with that enormous facility to get 25 percent of the
2 slot machine revenues.

3 So there are many examples across the board, and the
4 question is whether any of this should be in the governmental
5 realm. We ask questions of -- which this started out, Mr.
6 Bible's question, should the state lottery directors be
7 promoting, or should they be regulating.

8 That is an impossible question to answer, because in
9 any given budget year state legislators and governors are going
10 to be pushing them, looking at the next cycle, to raise more
11 money.

12 And on the other hand, the propriety of public bodies
13 marketing like a private sector company would, is and should be
14 seen in a very different context, because the responsibilities of
15 those running the public body are very different than, in many
16 ways, in the responsibilities of those running a private sector
17 company.

18 So I think at the root of -- I mean, this is almost an
19 insoluble problem. Once you agree to have a governmental body at
20 federal or state, or local level, run gambling operations.

21 This is a conundrum that I don't think we can really
22 come up with an answer, unless we say, look, this is just not
23 good public policy, and probably should not be allowed in any
24 form.

25 COMMISSIONER LEONE: Leo, there are some aspects of it
26 that are easier than others, and I take issue with the particular
27 piece of your statement, which is an implication that this is a
28 government agency acting like a private business.

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1 It is not in the area of gambling, or of things where
2 there is risk, acting like a private business. In fact, it is by
3 and large exempt from the restrictions on what you can say, and
4 the way you can advertise, and the way you can lead people, that
5 would be ordinary, routine, and required by law for private
6 businesses that are marketing risk in one form or another.

7 And one of the -- if you want to -- there is a whole,
8 you know, slope of difficulty in coming to a conclusion about
9 this. But I think that on the fairly level part of the beginning
10 of the hill, it is pretty clear that the state governments, this
11 is a generalization, most state governments set up, again a
12 generalization, most of the private people who were selling risk,
13 whether it is Fidelity Mutual Funds, or MGM Grand, that the state
14 governments are subject to less restriction on what they can say,
15 and they have taken advantage of that to market -- let's take the
16 title of your book, to market a whole variety of notions that
17 somehow the odds are better than they are, the cost is lower than
18 it is.

19 Take the 61 percent excise tax, it is seldom mentioned.
20 Would you like to engage in an activity that we tax at the rate
21 of 61 percent? That would be a nice --

22 COMMISSIONER MCCARTHY: I'm not sure what you are
23 saying is inconsistent with what I --

24 COMMISSIONER LEONE: No, it is not inconsistent.

25 COMMISSIONER MCCARTHY: -- it goes to the issue of the
26 propriety of governmental bodies taking this on as a normal
27 governmental function. Now, I don't know that it is at all
28 reversible.

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1 But let me ask you, I know that in selling hope, which
2 you and Dr. Cooke, with the help of others produced some 12 or 13
3 years ago, that some of the research you are now doing will help
4 you update some of those areas.

5 I remember a chapter in Selling Hope, that got to this
6 issue of state governments as to lotteries, regulatory or
7 promotional. Are you going to update that in this curve? I
8 don't think that is one of the areas we asked you to target, but
9 is --

10 DR. CLOTFELTER: The last section of our report we
11 promised to talk about the policy options. And I think that we
12 will touch on some of those.

13 COMMISSIONER MCCARTHY: What is the deadline for your
14 report, incidentally?

15 DR. CLOTFELTER: It is not determinate.

16 COMMISSIONER MCCARTHY: Not determinate? Will it be
17 in this millennium?

18 DR. CLOTFELTER: It was supposed to be January 31st, if
19 we had gotten our information.

20 COMMISSIONER MCCARTHY: I understand.

21 DR. CLOTFELTER: So what we are doing is do the --

22 COMMISSIONER MCCARTHY: Just give us a pretty good
23 guess.

24 DR. CLOTFELTER: I'm hoping it will be in -- by
25 mid-March, or something like that.

26 COMMISSIONER MCCARTHY: You know, related to -- I just
27 wanted to conclude by saying, as the Chair will advise you, and
28 Dr. Kelly as well, we have a series of meetings in which we are
29 trying to write the sections of this report. And one of them is

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1 in mid-March. So as much in advance as we could possibly have
2 this.

3 Well, as nice as you think Dr. Kelly is, he is a stern
4 taskmaster, and a much feared, he is breathing down our neck on
5 this.

6 COMMISSIONER WILHELM: Related to the points that
7 Richard and Leo were just discussing, I have only had a chance to
8 just briefly skim your draft report.

9 But I'm extremely intrigued by the two paragraphs on
10 page 13. You say the popularity of the lottery does not appear
11 to be the result of a mistaken belief that it offers a good bet.

12 The survey asked respondents how much of the ticket
13 price of your favorite game do you think is returned in the form
14 of price money?

15 By way of comparison the true average payout rate is
16 53.8 percent for lottery games in the U.S., yet 63 percent of the
17 respondents who had played the lottery in the last month thought
18 that the correct answer was 25 cents or less.

19 Only 7.5 percent of players had an exaggerated notion
20 of the lottery's generosity. And you go on to say that most
21 people also have a realistic notion of how they are actually
22 doing.

23 Which is extremely intriguing to me, and I think it is
24 a good cautionary note for this Commission, because by the very
25 nature of this subject, I think it is very easy for all of us to,
26 because we are sincerely concerned about the problems that are
27 manifest in relation to gambling, I think it is very easy for us
28 to latch into a sort of prohibitionist mentality, which I think
29 has no practical relationship to what is going on in the world.

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1 I mean, the fact is that this is a country that values
2 individual freedom. And if people want to go out and lose money,
3 and that is their idea of entertainment, they have the right to
4 do that, and I for one am surprised and intrigued by those two
5 paragraphs, that people appear to realize, at least in general
6 terms how bad the odds are, and then they appear to be realistic
7 about whether or not they are making money.

8 COMMISSIONER MOORE: Didn't we have someone talk to us,
9 maybe in Boston or someplace, said that he asked a guy what
10 chance he had of winning and he said 50 percent. If you bought a
11 ticket you had a chance, and if you didn't buy a ticket you
12 didn't have a chance.

13 On this government regulatory, talking about the
14 government and the lottery, don't we have to be careful, also,
15 when we talk about any type of gaming and regulation in the
16 state?

17 COMMISSIONER LEONE: Before we leave that, of course,
18 the NORC study would suggest that that is not true, since people
19 underestimate dramatically in the NORC study how much they are
20 spending on lottery, according to the evidence we were given at
21 the beginning.

22 Well, that is a different point. The question is how
23 much they are spending is not the same as those two points.
24 Those two points are whether they have a realistic notion of how
25 they are doing, I don't know if you have a realistic notion of
26 how you are doing if you are underestimating your expenditure
27 pattern by a factor of five or ten.

28 COMMISSIONER WILHELM: Well, but if you know if you are
29 ahead or behind, most people apparently realize they are behind.

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1 COMMISSIONER DOBSON: That same, I guess it was the
2 Chicago meeting, the powerball thing was decided the day we came
3 to the meeting. And people stood there knowing they had one
4 chance in 80 million, and were on television that night saying
5 I'm going to win.

6 It is amazing the denial of reality on the odds.

7 COMMISSIONER BIBLE: It comes back to John's point, is
8 why should somebody substitute their judgement for that person
9 who is standing in line judgement. I mean, they are entitled to
10 make a choice. If they understand what the odds are, and they go
11 up and play it, what is wrong?

12 COMMISSIONER DOBSON: Sucker born every day.

13 COMMISSIONER BIBLE: That may be.

14 COMMISSIONER WILHELM: Driving in I noticed that in
15 contrast to the 110 million that was offered when we were in
16 Chicago, it was only a million here in Virginia this week.

17 CHAIR JAMES: The lines are very short.

18 COMMISSIONER BIBLE: Of the lotteries that have been
19 legalized, how many have been legalized by vote of the people,
20 where the people settled the public policy issue?

21 DR. CLOTFELTER: There have been a bunch of referenda.
22 It could be in almost every state there have been referenda.
23 Consistently, there have only been a couple of cases in which
24 referenda have failed.

25 CHAIR JAMES: But isn't it true that when people vote
26 in the lottery they think they are voting for a piece of paper
27 with maybe a scratch-off, and they are surprised, five or six
28 years later, when they see, you know, Keno and other types of
29 games appearing, and it bears no relationship to --

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1 COMMISSIONER BIBLE: -- explain one of the reasons why
2 people vote, it is pretty difficult to do. I think the fact is
3 that they do vote, and that is the result.

4 CHAIR JAMES: Correct. But I wonder if people at that
5 point are really aware of the fact that when they are voting for
6 -- they think they are getting one thing, and five or six years
7 later they have quite a different animal.

8 COMMISSIONER BIBLE: Well, then that is probably their
9 fault.

10 DR. CLOTFELTER: I think it is the case for every
11 election.

12 CHAIR JAMES: That is probably true.

13 DR. CLOTFELTER: It seems to be the case that when the
14 referenda have been put to voting populations, that it is simply
15 a lottery. And it is not -- there are no choices there about how
16 much should we tax this lottery, how much should we market this.
17 It is thought to be -- it is a complicating factor, so --

18 CHAIR JAMES: Well, the reason I ask this question is
19 because at the end of the day we are going to have to say
20 something about this issue, and perhaps make some recommendations
21 to state and local, as well as federal officials.

22 And it just occurs to me that as we look at how states
23 present these questions to voters, that perhaps they could be a
24 little more clearer in --

25 COMMISSIONER LEONE: That is another question, and I
26 may be a hopeless romantic, or it may be the setting, but I think
27 it is possible to educate the public, over time, and make them
28 more sophisticated about the kinds of decisions they make.

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1 It is not always in -- it is seldom a part of the
2 political process, or certainly the campaign process for that to
3 take place. But I think one of the reasons you establish
4 independent Commissions that are not composed of people who are
5 at least currently running for office, is that they presumably
6 can say things and address issues that are hard to address in a
7 campaign context.

8 And there have been examples, cigarettes is the most
9 recent, where behavior has been affected, because we have
10 dramatically changed the kinds of information people get about
11 cigarettes. I say that in Old Virginny, maybe I shouldn't.

12 And the way in which cigarettes are portrayed in
13 popular culture, and the way in which they are sold, you no
14 longer here how many doctors smoke Camels. And so I think that
15 it is not -- with all due respect for the democratic process, and
16 for the people's popular will, and we all respect that here, I
17 think it is not inappropriate to consider ways in which people
18 might have a better idea of the consequences of decisions and
19 their actions.

20 And I also think without being nannies about it, we
21 have an obligation as a Commission to try to find ways,
22 particularly, to do that; to enlighten the conversation.

23 And I think the major -- by the way, I would just say,
24 my guess is having lived through this referenda about lotteries
25 is that most people -- a lot of people seem to vote for the
26 lotteries because they think it is going to mean lower taxes.
27 They don't see the lottery so much as a tax they are going to
28 pay, and they are sold not so much on you are going to win a
29 jackpot.

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1 When lotteries came in and they were referenda all over
2 the country, the overwhelming emphasis in those referenda was tax
3 relief. And it is a classic kind of economic phenomenon in which
4 you think someone else is going to pay, so it is a rational move
5 to vote for.

6 In fact, if you don't have some other set of motives
7 about lotteries, if you were just economic man, and you didn't
8 buy a lottery ticket, it would be rational not only to vote for
9 it, but to help fund the campaign, because somebody else would be
10 paying your part of the freight.

11 And so I think -- and I think one of the things you
12 mentioned earlier, Dr. Clotfelter mentioned earlier, that
13 generally the case is that people become cynical over time about
14 this simple phrase.

15 Which if you are ever in charge of a state budget is
16 something you hear every year, what happened to the lottery
17 money, why can't you use the lottery money for that. You know,
18 whatever happened to the lottery money.

19 Now, George is a good example of the very specific use
20 which tends to give you an answer to that question. But in most
21 states, I think it was just another -- lotteries have turned out
22 to be, in my judgement, this is just a personal opinion, just one
23 more way in which people's confidence, and the whole transaction
24 that involves government has been undermined, because their
25 expectations were high, they still get a tax bill for property
26 taxes, for sales taxes, or income taxes that they consider too
27 high.

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1 And they think the legislature and governors are
2 probably doing something they shouldn't do with the lottery
3 money, wasting it.

4 COMMISSIONER LANNI: Doctor, has any state ever,
5 through the legislative process, or a referendum, removed a
6 lottery that was once in place, that you know of?

7 DR. CLOTFELTER: In this century? Delaware, I think,
8 pulled out briefly, things were going to hell on a hand basket,
9 but they got back on board.

10 COMMISSIONER LANNI: They came back in. So even the
11 one that came out this century went back in?

12 DR. CLOTFELTER: Yes.

13 COMMISSIONER LANNI: So one should assume, in the
14 democratic process, either through representative government, or
15 a direct vote of the people, that they have chosen to have
16 lotteries in 37 states and the District of Columbia.

17 So you might assume that people want them in one form
18 or another.

19 DR. CLOTFELTER: I would assume that people want, that
20 a lot of people want them.

21 COMMISSIONER LANNI: And I guess comes the issue,
22 should the government, that Leo is raising, should the government
23 at state or federal level be involved in gambling. I guess the
24 answer to that is you can do what is occurring in eastern Europe,
25 and the former Soviet Union and Russia, and privatize it.

26 And I'm sure there are a number of entities, including
27 mine, that would be very interested in bidding on lottery if it
28 were available. But that is a separate issue.

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1 The issue that I have a concern with, is coming to the
2 aspect of I don't know how you can have self-regulation. And
3 when you have a business of gambling, when the state is involved
4 in it, how can it really regulate itself?

5 And that is a concern that I have, specially the
6 legislature, as you said Leo, and you were certainly a speaker of
7 the assembly in California, and Lt. Governor, I mean the
8 legislature is looking for money when it is coming through its
9 negotiations with the governor, or with the executive branch.

10 And they are going to be hard pressed to take a look at
11 the regulatory aspect of it rather than the income. So I don't
12 know how you regulate an industry that you are running, I just
13 don't know how you do that very effectively. That is a concern
14 that I have.

15 DR. CLOTFELTER: But it has to be acknowledged, and
16 this goes a little bit back to the question about faith in
17 government, too. The government is a monopoly provider of a
18 commodity, it is setting the price at extraordinarily high rate
19 of implicit taxation, besides the fact that it is gambling.

20 If it were any product one might ask the question, why
21 is the state doing this, and what can we conclude from that.

22 COMMISSIONER LANNI: But having said that, if you want
23 to go back to the first part of this century, was it not the
24 state of Louisiana that had a problem with the lottery, that
25 because of graft and corruption? Around the turn of the century.

26 So, I mean, you still have the problem of skimming,
27 potentially, you have all kinds of problems that exist if you
28 don't have a separate agency that doesn't have a vested interest

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1 in the particular enterprise observing it, reviewing it, and
2 requiring it to follow certain procedures and policies.

3 That is just a concern that I have. I just don't know
4 how you can have self-regulation, because if you are a proponent
5 of gambling in this country, one of the greatest concerns a
6 proponent would have is that an embarrassing scandal, and one
7 form of it, could permeate every aspect of legalized gaming.

8 DR. CLOTFELTER: The state lotteries have been very
9 successful in avoiding scandal. There was, you know, only been a
10 couple, and I guess this is an industry where scandal can really
11 undercut the demand. If the players think that it is not a
12 straight game, then they are not going to play.

13 COMMISSIONER BIBLE: I think you have to define scandal
14 from whose perspective. From the player's perspectives I don't
15 think that there has been allegations that the games are rigged,
16 or things of that nature, but there has been an awful lot of
17 controversy involved around the procurement process, around the
18 operators of the lottery themselves.

19 You have a number of lottery directors that have been
20 accused of, and in fact in some cases, convicted of taking
21 gratuities from providers of lottery services.

22 So you have to take that --

23 DR. CLOTFELTER: Stand corrected.

24 COMMISSIONER BIBLE: -- and break it down.

25 COMMISSIONER BIBLE: There has been an awful lot of
26 controversy over that.

27 COMMISSIONER LEONE: It is a great way to bring the
28 advertising people into the political process. More
29 participation.

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1 COMMISSIONER MCCARTHY: May I ask how many states
2 created their lotteries without a vote of the people, but rather
3 with a vote of the legislature?

4 DR. CLOTFELTER: I don't know. I would guess it can't
5 be a big number. But I don't know the answer. I could look it
6 up, it might be in the book, I don't know.

7 If you are looking at policy questions, one -- and this
8 is a modest idea that we did propound in our book, to say that
9 one might take as a modest policy benchmark for advertising done
10 by lotteries, as advertising done by any state agency, are these
11 messages that you would be comfortable in having in junior high
12 textbooks.

13 And if you took that as a criterion, some of the
14 messages that we found in advertising, would be things that I
15 wouldn't be comfortable having in my son's eighth grade textbook,
16 such as if you want to get ahead in the world, just play a bet.

17 So that might be -- that might be one reason to think
18 about regulation. But it is just a thought.

19 COMMISSIONER BIBLE: Have you catalogued any federal
20 laws that lotteries would be exempted from, that other activities
21 would have to follow, advertising practices, and things of that
22 nature, disclosure?

23 DR. CLOTFELTER: No. Really the only one is the one I
24 mentioned that I did become aware of, having to do with FTC's
25 regulation of sweepstakes, and the non-comparability, that is the
26 only one.

27 Now, I know that the states, some of the lottery
28 agencies exempt their lottery agencies from procurement.

1 COMMISSIONER BIBLE: From state law housekeeping
2 practices?

3 DR. CLOTFELTER: Whatever those are. But I'm not a
4 lawyer.

5 DR. CLOTFELTER: Well, if you have more questions, feel
6 free to just pass them along, and Tim would let me know.

7 COMMISSIONER LEONE: I would just say one thing. This
8 isn't so much something to answer on your feet, but if you have a
9 list of things that you think are areas for further research on
10 the lottery, we are going to have a pretty long menu of things
11 that we hope various organizations will take on, and we could use
12 lots of advice about that.

13 DR. CLOTFELTER: Okay.

14 CHAIR JAMES: Do you have any summary or closing
15 comments, Dr. Clotfelter, that you would like to make?

16 DR. CLOTFELTER: Well, I wish this Commission great
17 luck because it sounds like you have your work cut out for you,
18 and you have many more areas than state lotteries to consider.

19 CHAIR JAMES: Thank you. We do, our plate is very
20 full. And, again, I do want to thank you for making that
21 tremendous effort to be here with us today. I think it was very
22 important for us to have the benefit of your input, as we are at
23 this stage in deliberations.

24 DR. CLOTFELTER: It is my pleasure. The driver got
25 caught by the Virginia state troopers only once.

26 (General laughter.)

27 CHAIR JAMES: What I would like to do is maybe just
28 take a break, and see if our presenters that are due to start at

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1 three would mind starting about 2:30 so we could get started a
2 little earlier.

3 But we will take a break and give them time to come up.

4

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